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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of:)	
Hector De La Vega; and)	
Ignacio Lopez)	
Respondents.)	ADMINISTRATIVE CONSENT
)	ORDER
)	NUMBER 93-15
Proceeding Under Section 122(h)(1))	
of the Comprehensive Environmental)	
Response, Compensation and Liability))	
Act of 1980 (42 U.S.C. §9622(h)(1)))	
as amended by the Superfund)	
Amendments and Reauthorization)	
Act of 1986)	

This Order is issued by the United States Environmental Protection Agency ("EPA") and is agreed to by Hector De La Vega and Ignacio Lopez ("Respondents"). The purpose of this Order is for EPA to recover response costs incurred by the United States at or in connection with the **Mexam Trucking Removal Site** ("Site") located at 700 Pierce Avenue, Calexico, California, and to resolve the liability of the Respondents for such response costs. This order does not resolve any matters associated with the **Mexicali Drums Removal Site** for which EPA incurred costs in responding to hazardous substances repatriated to the United States from a location in Mexicali, Baja California, Mexico.

EPA is authorized to enter into this Order pursuant to the authority vested in the Administrator of the EPA by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("CERCLA"), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Sept. 13, 1987), and redelegated to the Director, Hazardous Waste Management Division, EPA Region IX.

WHEREAS, EPA alleges that hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. section 9601(14), were present at the Site and that such hazardous substances were or were threatened to be released into the environment from the Site;

WHEREAS, EPA alleges that the Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. section 9601(9);

WHEREAS, EPA alleges that such releases or threatened releases required response action to be undertaken at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. section 9604;

WHEREAS, EPA alleges that in performing this response action, it has incurred response costs at or in connection with the Site totalling \$14,834.94;

WHEREAS, EPA alleges that the Respondents are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. section 9607(a), and are jointly and severally liable for response costs incurred in connection with the Site;

WHEREAS, the Regional Administrator of EPA Region IX has determined that the total response costs incurred by the United States to date at or in connection with the Site do not exceed \$500,000, excluding interest, and that, based upon information currently available to EPA, total United States response costs at or in connection with the Site are not anticipated to exceed \$500,000, excluding interest, in the future; and

WHEREAS, EPA and the Respondents desire to settle certain claims arising from the Respondents' alleged involvement with the Site without litigation and without the admission or adjudication of any issue of fact or law;

NOW, THEREFORE, in consideration of the promises herein, and intending to be legally bound hereby, it is ordered and agreed as follows:

1. This Order shall be binding upon EPA and shall be binding upon the Respondents and their successors and assigns. Each signatory to this Order represents that he or she is fully authorized to enter into the terms and conditions of this Order and to bind legally the party represented by him or her. The Respondents agree to undertake all actions required by this Order. The Respondents consent to the issuance of this Order and will not contest EPA's authority to enter into this Order or to implement or enforce its terms.

2. The Respondents agree to pay to the Hazardous Substance Superfund \$15,118.49 in twelve equal monthly installments of \$1259.87. The first payment shall be made within ten (10) days after the effective date of this Order. Subsequent payments shall be made by the fifteenth (15th) day of each month following the month of the date on which the first payment is required. If Respondents default in the payment of any sums due under this Section, then the EPA shall provide written notice of the default to the Respondents and their counsel by certified mail, return receipt requested, at the following addresses:

Hector De La Vega
P.O. Box 2118
Calexico, CA 92231

Solomon, Ward, Seidenwurm & Smith
Attention: David B. Kuhlman, Esq.
401 B Street, Suite 1200
San Diego, CA 92101

Ignacio Lopez Ruiz
700 Pierce Avenue
Calexico, CA 92231

Patrick Swan, Esq.
Luce, Forward, hamilton & Scripps
600 W. Broadway, Suite 2600
San Diego, CA 92101

3. The Respondents' payments shall be made by certified or cashier's check made payable to "EPA-Hazardous Substance Superfund." The checks shall reference the name and address of the Respondent, the Site name and identification number (Mexam Drums, ID# 09 2X), and the EPA docket number for this action and shall be sent by the Respondents to:

EPA Region IX
ATTN: Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

4. The Respondents shall simultaneously send copies of their checks to:

Brent Maier
Mail Code H-8-4
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

5. In addition to any other remedies or sanctions available to EPA, any Respondent who fails or refuses to comply with any term or condition of this Order shall be subject to an enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3), and to civil penalties pursuant to Sections 122(l) and 109 of CERCLA, 42 U.S.C. §§ 9622(l) and 9609. The Settling Parties may submit their payments by one or more checks, but they are jointly and severally liable for payment of all amounts due under this Order.

6. Subject to Section 7 of this Order, upon payment of the amount specified in Section 2 of this Order, EPA agrees that the Respondents shall have resolved any and all civil liability of Respondents and any other persons or entities to EPA under Section 107(a) of CERCLA, 42 U.S.C. section 9607(a), for reimbursement of EPA response costs incurred at or in connection with the Mexam Trucking Removal Site, located at 700 Pierce Avenue, Calexico, California as of September 21, 1992.

7. Nothing in this Order is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against the Respondents for:

a) any liability as a result of failure to make the payments required by Sections 2 and 6 of this Order or other failure to comply with terms of this Order; or

b) any liability not expressly included in Section 6 above, including, without limitation any liability for i) injunctive relief at the Site; ii) response costs other than those incurred at or in connection with the Site; iii) damages for injury to or loss or destruction of natural resources; or iv) criminal liability.

8. Except as provided in Section 6, nothing in this Order is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against any person, firm, corporation or other entity not a signatory to this Order.

9. The Respondents agree not to assert any claims or causes of action against the United States or the Hazardous Substance Superfund arising out of response activities undertaken at, or relating in any way to, the Site, or to seek any other costs, damages, or attorney's fees from the United States, its agencies, employees or contractors arising out of response activities undertaken at, or relating in any way to, the Site. The Respondents waive any right they might have to seek reimbursement

from EPA pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, for any costs pertaining to the Site.

10. With regard to claims for contribution against the Respondents for matters addressed in this Order, the parties hereto agree that the Respondents are entitled, as of the effective date of this Order, to such protection from contribution actions or claims as is provided in Section 122(h)(4) of CERCLA.

11. This Order shall be subject to a thirty-day public comment period pursuant to Section 122(i) of CERCLA. In accordance with Section 122(i)(3) of CERCLA, EPA may modify or withdraw its consent to this Order if comments received disclose facts or considerations which indicate that this Order is inappropriate, improper or inadequate.

12. The effective date of this Order shall be the date upon which EPA issues written notice to the Respondents that the public comment period pursuant to Section 11 of this Order has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Order.

IT IS SO AGREED:

[Respondents]

By: Hector De La Vega
Hector De La Vega

May 6, 1993
Date

By: Ignacio Lopez
Ignacio Lopez

MAY 11 1993
Date

The above being agreed and consented to, IT IS SO ORDERED

this 18th day of May, 1993.

U.S. Environmental Protection Agency

By: Jeff Zelikson
Jeff Zelikson, Director
Hazardous Waste Management Division
Region IX